

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA, No. CR - 05-0118 MMC

12 Plaintiff,

13 v.

14 JOSE J. CARDENAS, et al.,

15 Defendants.

16 _____ /
17 ORDER FOR CRIMINAL
18 PRETRIAL PREPARATION

19 Good cause appearing, IT IS HEREBY ORDERED that:

20 TRIAL:

21 Trial will begin on MONDAY, October 1, 2007, at 9:00
22 a.m. Estimated length of trial is 2 to 3 weeks.

23 DISCOVERY:

24 By the close of business, THURSDAY, July 12, 2007, the
25 parties will exchange the information, documents and tangible
objects authorized by Fed.R.Crim.P. 16. Additional discovery shall
be by motion accompanied by affidavits setting forth the unusual
circumstances justifying discovery beyond the limits of
Fed.R.Crim.P. 16.

26 PRIOR TO FILING ANY DISCOVERY-RELATED MOTIONS, COUNSEL SHALL:

27 1. Meet and confer with opposing counsel, and

28 2. File a declaration, under penalty of perjury, that
counsel has conferred with opposing counsel with respect to each

1 and every issue on an informal basis. Said declaration may be
2 filed contemporaneously with the motion. If no such declaration is
2 filed, the Court will return the motion papers to counsel.

3 **MOTIONS:**

4 All motions will be heard on **TUESDAY, August 21, 2007, at**
5 **10:00 a.m.** Motions, affidavits and memoranda shall be served, filed
and an extra copy lodged with the Court by the moving party by **4:00**
6 **p.m. July 24, 2007.** Any opposition shall be filed and an extra
copy lodged with the Court by **12 o'clock noon August 7, 2007.**
Any reply shall be filed an extra copy lodged with the Court by **12**
7 **o'clock noon August 14, 2007.**

8 A party filing or opposing any motion or other paper in
9 this case shall show on the first page beneath the file number
which, if any, of the exclusions under 18 U.S.C. § 3161 may be
10 applicable to the action sought or opposed by the motion or other
paper, and his/her calculation of the amount of excludable time to
the hearing date.

11 **PRETRIAL CONFERENCE:**

12 A Pretrial Conference will be held on **TUESDAY,**
August 21, 2007, at 10:00 a.m.. At the Pretrial Conference the
parties shall be prepared to discuss the matters set forth in
14 Crim.L.R. 17.1-1(b).

15 **PRETRIAL PREPARATION:**

16 Not less than **five court days** before the Pretrial
17 Conference, counsel for the government shall:

18 (1) Serve and file a trial memorandum briefly stating
19 the legal bases for the charges and the anticipated evidence,
and addressing any evidentiary, procedural or other
anticipated legal issues;

20 (2) Serve and file a list of all witnesses who may be
called, together with a brief summary of the testimony of
each;

21 (3) Serve and lodge a proposed form of verdict on
22 pleading paper containing no reference to the party submitting
it;

23 (4) Serve and lodge proposed questions for jury voir
dire; and

24 (5) Serve and lodge copies of all exhibits to be offered
25 at trial, together with a complete list (see attached form) of
those exhibits. each exhibit shall be premarked (see attached
tags); generally the government shall use numbers, the
defendant letters.

1 Not less than **five court days** before the Pretrial
2 Conference, defense counsel shall comply with subparagraphs (3) and
3 (4) above, and, to the extent consistent with the defendant's right
to an effective defense, with subparagraphs (1), (2) and (5) above.

4 Counsel shall confer in advance of the Pretrial
Conference and be prepared to discuss with the Court any
5 anticipated evidentiary objections and any means for shortening and
6 simplifying the trial (e.g., by stipulating to such matters as
chain of custody, nature of substances, use of the mails, etc.).

7 **JURY INSTRUCTIONS:**

8 All proposed jury instructions and any objections thereto
9 are to be served and submitted with the pretrial filings, with the
exception of the following model instructions from the Ninth
10 Circuit Manual, which will be given as indicated:

11 Before opening statement: **1.01 - 1.11 and 2.02.**

12 Before the first recess: **2.01.**

13 At the close of the evidence and before argument:
3.01 - 3.07 and 3.08 - 3.12 (as applicable).

14 At the close of argument and immediately before
deliberations: **7.01 - 7.05.**

15 In advance of the pretrial filings the parties shall do
the following:

16 (1) Meet and confer and resolve all jury instructions to
the extent possible. Parties are expected to resolve
technical or semantic differences.

17 (2) Prepare **one joint** set of instructions upon which the
parties agree.

18 (3) The parties shall submit separately only those
instructions upon which there is **substantive** disagreement.
Each separate instruction shall note on its face the identity
of the party submitting such instruction. The party or
parties objecting to an instruction shall file a written
objection. The form of the objection shall be as follows:

19 (a) Set forth in full the instruction to which
objection is made;

20 (b) Provide concise argument and citation to
authority explaining why the instruction is improper.

21 (c) Set forth in full an alternative instruction,
if any;

1 (4) An original and two copies of the agreed-upon joint
2 instructions, separate instructions and objections shall be
3 filed on or before the date for filing the joint pretrial
statement and other pretrial materials.

4 (5) The parties shall be prepared to submit two clean
5 copies of instructions without citations, titles, or
6 attribution on or before the date trial commences.

7 (6) All instructions should be concise, understandable
8 and neutral statements of law. Argumentative instructions
9 will not be given and should not be submitted.

10 (7) Any modifications of instructions from Ninth Circuit
Model Jury Instructions, Devitt and Blackmar, or other form
instructions must identify the modifications made to the
original form instruction and the authority supporting the
modification.

11 **TRANSCRIPTS:**

12 If transcripts will be requested during or immediately
13 after trial, arrangements must be made with the court reporter at
least one week before trial commences.

14 **CHANGE OF PLEA:**

15 Counsel shall give prompt notice to the United States
16 Attorney and to the Court of any intention to change a previously
entered not guilty plea.

17 **EXHIBITS:**

18 Each party is responsible for their exhibits. Upon the
conclusion of the trial, each party shall retain their exhibits.
19 Should an appeal be taken, it is the party's responsibility to make
arrangements with the clerk of the Court to file the record on
20 appeal.

21 **IT IS SO ORDERED.**

22
23
24 DATED: April 27, 2007
25
26
27
28

Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge